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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... WYOMING

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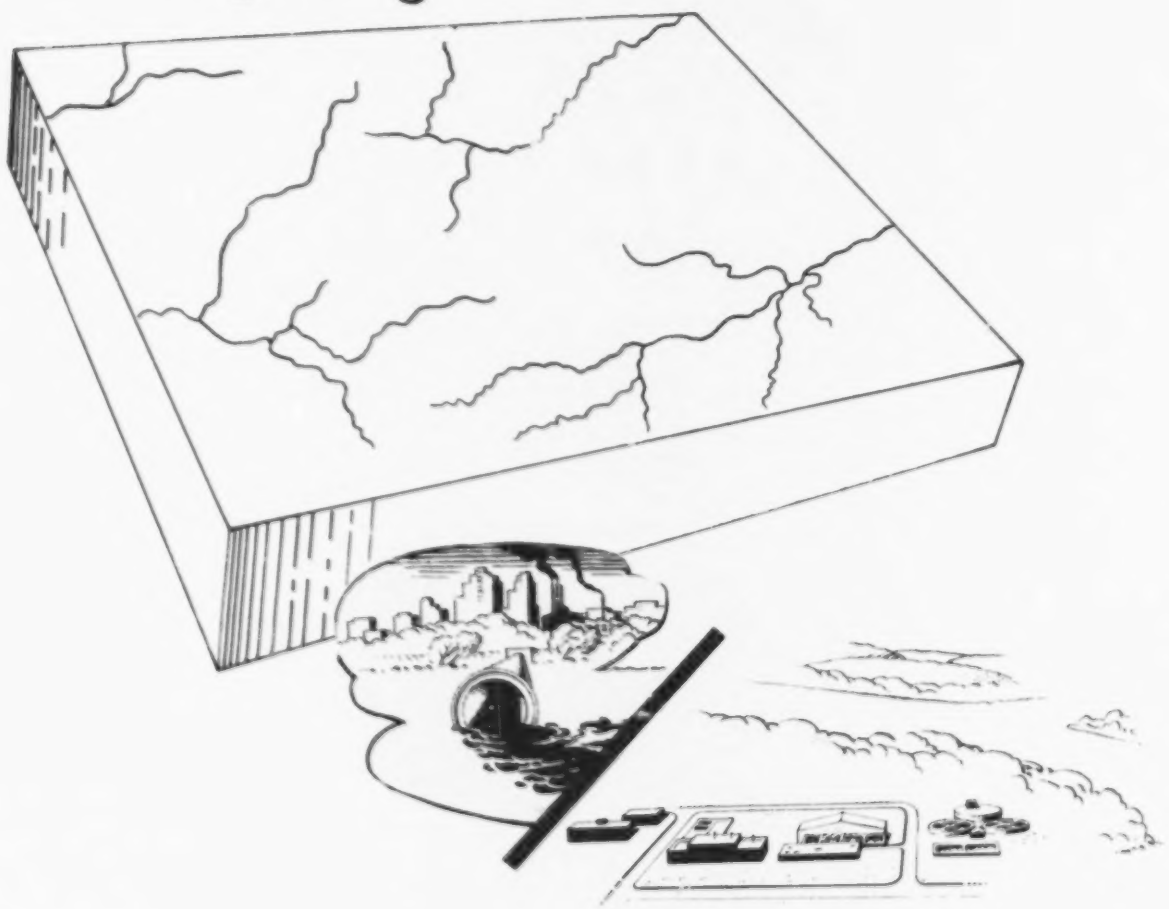

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF WYOMING WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The State Department of Health has general supervision over water pollution control in the State. The Stream Pollution Advisory Council advises the Department in the development of a comprehensive program for the prevention, abatement and control of water pollution (1957 Cum. Supp., sec. 63-201).[1/]

The Division of Administration under the Director of the State Department of Health is authorized to exercise all rights and powers and to perform all duties vested in or imposed by law upon the State Board of Health (1957 Cum. Supp., secs. 63-147, 63-148, 63-149).

The State Engineer has authority with advice and consent of the Board of Control to require the abatement of any condition, or the sealing of any well, responsible for the admission of polluting materials into an underground water supply (1957 Cum. Supp., sec. 71-3625(h)).

The Oil and Gas Conservation Commission has authority to require proper safeguards and procedures in the drilling, casing, and plugging of wells to prevent the pollution of fresh water supplies by oil, gas, or salt water (1957 Cum. Supp., sec. 57-1112(d)(1)(C)). It also has authority to regulate, for conservation purposes, the disposal of salt water, non-potable water, and oil-field wastes, and the contamination or waste of underground water (1957 Cum. Supp., sec. 57-1112(d)(2)(D)(E)).

1/ Citations in this digest refer to the Wyoming Compiled Statutes Annotated, (1945) and the 1957 Cumulative Supplement thereto, unless otherwise indicated.

II. ADMINISTRATIVE ORGANIZATION

A. State Department of Public Health

1. Composition

The Department consists of the State Board of Health and the Division of Administration.

2. Powers and duties

The Department is charged with the general oversight of all inland waters and of all streams, lakes and ponds used by any municipality, public institution or water or ice company as sources of water supply for domestic use, and of all springs, streams, and water courses tributary thereto, with respect to their condition and use as affect the public health. Any pollution thereof which adversely affects livestock, agricultural crops, wildlife, fish or aquatic life is also deemed to affect public health (1957 Cum. Supp., sec. 63-201).

B. Stream Pollution Advisory Council

1. Composition

The Council is composed of the Director of the State Department of Public Health, the State Game and Fish Commissioner, the State Engineer, the State Commissioner of Agriculture and six other members, one of whom represents industry and one municipal government. The terms of the six appointed members are for four years, except that those first appointed need not be for full terms. All members are appointed by the Governor (Ibid).

2. Powers and duties

The primary duty of the Council is to advise the State Department

of Public Health in the development of a comprehensive program for the prevention, control and abatement of water pollution (Ibid).

C. Division of Administration

The Division is authorized, among other things, to (1) abate nuisances, (2) enforce established water quality standards for public water supply, enforce standards for the quality of sewerage system effluents and trade wastes discharged upon the land or into the surface or ground waters of the State, and to give advice concerning the methods of providing for the purification of water and the treatment of sewage and trade wastes to meet such minimum standards, (3) exercise sanitary control over the use of water employed in the irrigation of vegetables or other edible crops intended for human consumption, and to exercise sanitary control over the use of fertilizer derived from human excreta or from the sludge of sewage disposal plants, and (4) hold hearings, administer oaths, subpoena witnesses and take testimony in all matters relating to the exercise and performance of its powers and duties (1957 Cum. Supp., sec. 63-149).

D. State Board of Health

1. Composition and organization

The Board is composed of five members who are appointed by the Governor with the consent of the Senate. Two of such members must be physicians, one a dental surgeon, one a veterinarian and a layman. All members, except those first appointed, are appointed for terms of six years. Not more than three members must be of the same political party. The Board selects from its members a President, Vice President, Secretary

and such other officers as it determines. The State Director of Public Health may, in the discretion of the Board, serve as its Secretary. Regular meetings of the Board are held at least once every three months. Special meetings may be called by the President, the Director or a majority of the members. A majority of the members constitutes a quorum. The Board adopts bylaws relating to its meetings and the transactions of its business (1957 Cum. Supp., sec. 63-145).

2. Powers and duties

a) General authority

The Board acts in an advisory capacity to the Director of Public Health. It determines the general policies to be followed by the Division of Administration in administering the public health laws (1957 Cum. Supp., sec. 63-147).

b) Enforcement

Upon complaint made to the Board that sewage or other polluting matter tends to pollute water used as a source of public water supply, the Board makes an investigation and if the facts justify the complaint, serves upon the party causing such pollution an order prohibiting its continuance (Sec. 63-207).

Upon the application of the Board or any interested party, the District Court has jurisdiction in equity to enforce the orders, rules and regulations of the Board, and to restrain the use or occupation of premises upon which there is deposited material causing pollution (Sec. 63-210).

No sewage, drainage, refuse or polluting matter, of such kind and amount as will pollute or impair the quality of waters used as a source of water or ice supply by any municipality, institution or person, or render it injurious to health, and no human excrement, is to be discharged into any such waters or upon its banks unless such waste has been purified so as to render it harmless in such a manner and under such conditions and restrictions as the Board may direct; however, no city or town is to be prohibited from discharging its sewage into water unless such sewage so pollutes the water as to be dangerous or injurious to public health (Sec. 63-205).

No municipality, company, or person can construct, operate any railroad, logging road, or camp, or other industrial plant of any kind upon or over any watershed of a public water supply system, unless they protect the water supply from pollution by such sanitary precautions as the Board may approve. Before any such construction, plans and specifications therefor must be approved by the Board (Sec. 63-206).

The County Attorney of the county in which a cause of action arises brings any action requested by the Board to abate a condition which exists in violation of, or to restrain any action which is in violation of, or to prosecute for the violation of, or for the enforcement of the public health laws. Upon the failure of the County Attorney to act, the Board brings such action and is represented by the Attorney General or by special counsel (1957 Cum. Supp., sec. 63-152).

Anyone aggrieved by a decision of the Board may appeal such decision by bringing an action within 30 days of such decision in the District Court of his residence. The Court hears the case without a jury. The Court may affirm, reverse or modify the Board's decision. Either party may appeal further to the State Supreme Court (1957 Cum. Supp., sec. 63-153; sec. 63-209).

Anyone who wilfully violates, disobeys or disregards the provisions of the public health laws or the terms of any lawful notice, order, rule or regulation issued pursuant thereto, or who conducts a business without a certificate or permit, if one is required therefor, or who wilfully fails to remove any nuisance or source of filth from his property at his own expense within 48 hours after notice by health authorities, is subject to a fine or imprisonment, or both, and in addition is liable for all expenses incurred by the health authorities in removing any such nuisance or source of filth (1957 Cum. Supp., sec. 63-154; sec. 63-212).

c) Conduct of studies, investigation and research

The Board is authorized to make bacteriological analysis of water supplied for human consumption, and if such is found to be unsafe, it notifies the supplier thereof who must take immediate steps necessary to provide safe water. The Board is further authorized to investigate the pollution, by artificial causes of natural waters and of all water works and systems supplying water for public consumption, to determine the sanitary and economic effects of such pollution. In this connection, the Board may enter any building, grounds, or other works connected with the

collection and distribution of water to the public to conduct experiments pertaining thereto. It may hold hearings in connection therewith and report its findings to the municipal officials or other party as the case may be (1957 Cum. Supp., secs. 63-112; 63-214; sec. 63-208).

The Board is empowered to examine waters to ascertain their fitness for domestic use. It may make rules and regulations to prevent pollution and to secure the sanitary protection of all such waters (Sec. 63-202).

d) Cooperation with other agencies

The Board is empowered to consult with and advise municipalities and persons on their system of water supply, drainage and sewage as to the source of water supply and methods of assuring its purity, or as to methods of disposing of their wastes with reference to the existing and future needs of other municipalities or persons which may be affected thereby. It also may advise companies whose wastes may tend to pollute any inland water as to methods of preventing such pollution (Sec. 63-204).

The Board is also authorized to accept, disburse and administer all Federal-aid or other moneys allotted to it for State and local public health work (1957 Cum. Supp., sec. 63-148).

e) Administrative powers

The Board is authorized to hold hearings, administer oaths, subpoena witnesses and take testimony. It may bring court actions to enforce the public health laws (1957 Cum. Supp., sec. 63-147). It makes rules and regulations to prevent the pollution of waters (Sec. 63-202). It is authorized to issue orders (Sec. 63-207). It issues a biennial report to the Legislature, and makes recommendations for the prevention

of water pollution. It gives notice to the Attorney General of any violation of law relative to the pollution of water supplies and inland waters (Sec. 63-211).

3. Severability clause

The Act contains a severability clause (1957 Cum. Supp., sec. 63-156).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is a misdemeanor for anyone to deposit in any natural stream or lake in which there are fish, any sawdust, chemicals, milltailing, poisons, or other refuse matter that tend to drive away or kill fish. This applies also where such deposits may tend to render the water unfit for domestic, irrigation, stock or other purposes, or where they will tend to interfere with the flow, channel or condition of such waters. Each day the violation continues is a separate offense. Nothing in this or any other Act, however, is to prevent the owner of any mill, concentration works, reduction works, or tailings pond or basin used in connection therewith, from operating such works or basin where the owner builds a dam for settling purposes; provided that before such dam is built, approval therefor must be secured from a joint committee composed of the Director of the State Department of Public Health, the State Game and Fish Commissioner and the State Engineer. The Game and Fish Commissioner may issue a permit, upon the petition of a majority of the land owners on any irrigation stream, to allow sawdust to be put in any stream that does not reach a main body of water or living stream. Slag from smelter furnaces are exempt from this and the following section (1957 Cum. Supp., sec. 47-507).

It is unlawful for anyone to catch, kill or destroy fish by the use of any poison, drugs or chemicals. Violation is a misdemeanor (Sec. 47-508).

It is unlawful for anyone to put the carcass of a dead animal, offal, other putrid matter or the contents of a privy vault into any waters of the State used as a source of public or domestic water supply (Sec. 9-705).

The throwing of sawdust from any sawmill into any watercourse is unlawful (Sec. 9-707).

It is unlawful for anyone to poison any spring, well, cistern or reservoir of water with intent to injure or kill any human being (Sec. 9-220).

It is unlawful for anyone to pollute or obstruct any watercourse, lake, pond, marsh or common sewer (Sec. 9-711).

IV. INTERSTATE COMPACTS

Wyoming is a party to the Bear River Compact (1957 Cum. Supp., sec. 71-3701).